

REMARKS

Claims 1-21 are pending in the application. The Applicants hereby request further examination and reconsideration of the application in view of these remarks.

On 02/14/2008, Applicants' Attorney Yuri Gruzdkov participated in a telephonic interview with Examiner Juvena W. Loo and Supervisory Examiner Kwang B. Yao. The Applicants thank the Examiners for the courtesy of that interview.

On page 2 of the final office action, the Examiner stated that "The Declaration filed on October 30, 2007 under 37 CFR 1.131 has been considered but is ineffective to overcome the Mei[er] et al. (US 2005/0018624 A1) reference." The Examiner then further stated that:

The evidence submitted is insufficient to establish diligence from a date prior to the date of reduction to practice of the Mei[er] et al. (US2005/0018624 A1) reference to either a constructive reduction to practice or an actual reduction to practice. In particular, the evidence submitted shows dates that are later than the filing date of the Mei[er] et al. reference. In addition, the evidence submitted does not provide the actual dates of acts relied on to establish diligence. See MPEP 715.07 [R-3] II, Establishment of Dates.

During the telephonic interview, the Examiners agreed with the Applicants' Attorney that the filed Declaration is sufficient to overcome the Meier reference. The Examiners further agreed to reopen prosecution upon official response from the Applicants. See Interview Summary, Form PTOL-413, dated February 14, 2008. In particular, the following issues have been discussed and agreed upon:

- (1) The removal of dates from Applicants' Exhibits A and B is proper because MPEP 715.07 [R-3], Section II, Establishment of Dates, permits the Applicants to "merely allege that the acts referred to occurred prior to a specified date;"
- (2) Applicants' Exhibits A and B are sufficient to establish conception prior to the effective date of the Meier reference because the filed Declaration contains "a declaration by the inventor to the effect that his or her invention was conceived or reduced to practice prior to the reference date" and Applicants' Exhibit A contains "original exhibits of drawings or records, or photocopies thereof" in compliance with MPEP 715.07 [R-3], Section I, General Requirements; and
- (3) Applicants' Exhibits B, C, D, E, and F are sufficient to establish "due diligence from prior to the reference date to the filing date of the application (constructive reduction to practice)" because these exhibits account for "The period during which diligence is required ... by either affirmative acts or acceptable excuses" and show "reasonable 'attorney-diligence' and 'engineering-diligence'" in compliance with MPEP 2138.06.

For all these reasons, the Applicants request that the final rejection be withdrawn and prosecution on the merits be reopened.

Respectfully submitted,

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